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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,000	02/19/2004	Rufus L. Holmes	36397-95435	5315

7590 06/20/2005
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EXAMINER

PHILLIPS, CHARLES E

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/782,000	HOLMES, RUFUS L.	
	Examiner	Art Unit	
	Charles E. Phillips	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-11, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 5-7, 12-14 and 17-20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 5-137670 in view of Wert and Liu et al.

Jp teaches a reclining backrest 3 mounted on a toilet bowl. Wert teaches a cushioning material used to construct a seat lid. Liu et al teach a lid operated via a switch controlled motor, see Fig. 7. It would have been obvious to provide for the seat backrest 3 of JP to employ a cushioning material as taught by Wert to glean its inherent properties and to provide for the motor operated arrangement as taught by Liu et al, for the same reasons. The location of the switch "on a side surface of the toilet bowl" would not unobviously define the location of Liu et al as any location accessible by the user would have been obvious to the ordinary artisan with the teachings of Liu et al at hand. Re: claim 2, to conceal any portion of the assembly in the bowl would constitute an obvious expedient of choice in design, as opposed to surface mounting. Each would exhibit its merits which would have been entirely expected by the ordinary artisan. Claims 3-4 call for nothing beyond a conventional pin and bracket mount which are depicted without comment by Wert and Liu et al.


Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jp in view of Liu et al as applied supra. See the tank of Fig. 7. It would have been obvious to employ the backrest of the former in an environment such as taught by the latter.

Art Unit: 3751

Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP in view of Liu et al as applied supra.

Claims 5-7, 12-14 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Charles E. Phillips at telephone number 571-272-4893.


Charles E. Phillips
Primary Examiner